

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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January 28, 2008

Opinion No. 08-13

Liquor by the Drink Referendum

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**QUESTION**

May residents of the Davidson County portion of Goodlettsville sign a petition calling for a referendum on liquor by the drink in the Sumner County portion of Goodlettsville only?

**OPINION**

No. Under Tenn. Code Ann. § 57-4-103(a)(5), a petition for a liquor by the drink referendum held in a municipality that is located within two counties, one with a metropolitan form of government that has approved sales of liquor by the drink and one county that has not, may be signed only by residents of the portion of the county that has not approved liquor by the drink sales.

**ANALYSIS**

In Tenn. Op. Att’y Gen. 06-113, this office opined that, if the city of Goodlettsville held a referendum on whether to allow liquor by the drink and it failed, the Davidson County portion of Goodlettsville would likewise be prohibited from selling liquor by the drink. After that opinion was issued, the General Assembly amended Tenn. Code Ann. § 57-4-103 and added section (a)(5) which states:

When a municipality is located partly within a county that has a metropolitan form of government and the county has approved sales of alcoholic beverages for consumption on the premises and partly within another county that has not approved sales of alcoholic beverages for consumption on the premises, a referendum in the municipality shall be held only in that portion of the municipality located in the county that has not approved sales of alcoholic beverages for consumption on the premises. The referendum result shall not affect the sale of alcoholic beverages for consumption on the premises in the portion of the municipality located in the county having a metropolitan form of government.

Tenn. Code Ann. § 57-3-106(c) provides for the calling of liquor by the drink referenda. It states, in relevant part:

Elections provided for in subsections (a) and (b) shall be called and held as elections on questions by the county election commission at the next regular election of the county or municipality, as the case may be, upon receipt of a petition signed by residents of the county or municipality, as the case may be, to a number amounting to ten percent (10%) or more of the votes cast in the county or municipality, as the case may be, for governor of the state of Tennessee at the then last preceding gubernatorial election, requesting the holding of the election.

The primary objective of statutory construction requires the interpreter to ascertain and give effect to the intention and purpose of the legislature. *State v. Denton*, 149 S.W.3d 1 (Tenn. 2004). Legislative intent is to be found, whenever possible, in the plain and ordinary meaning of the language of the statute. *State ex rel. Pope v. U.S. Fire Ins. Co.*, 145 S.W.3d 529 (Tenn. 2004). Two statutes relating to the same subject matter are to be read together and construed to operate in harmony. *In re Akins*, 87 S.W.3d 488 (Tenn. 2002).

Tenn. Code Ann. §§ 57-4-103(a)(5) and 57-3-106(c) are clear and unambiguous. Read together, the statutes contemplate that, where a single municipality is located in both Davidson County and a bordering county, the legislature intended to authorize the voters located within the area of the municipality lying in the bordering county to decide whether to allow sales of liquor by the drink in that part of the municipality only, without affecting sales in the other part. In limiting the effect of such votes, it follows that the legislature also intended to restrict the signing of petitions calling for a liquor by the drink referendum to persons who reside in the part of the municipality where the referendum is going to be held.

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